THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Civil Misc. Writ Petition (M/S) No. 879 of 2005
(Under Article 227 of the Constitution of India)

Nagar Palika Parishad, Haldwani, Kathogodam
Through its Executive Officer.

… **Petitioner.**

Versus

1. P.O. Labour Court,
2. Pushkar Singh Parmar S/O Sri Swaroop Singh Parmar.
   House No. 3/1232, Subhash Nagar, Haldwani.

… **Respondents.**

Sri Ashish Joshi, learned counsel for the petitioner.
Sri M.C.Kandpal, Sr.Adv., assisted by Sri Kurban Ali, learned counsel for respondent no.2
Sri Nand Prasad, Learned Standing Counsel for the respondent No. 1.

Dated May 24, 2006

PC:
(Hon'ble B.S.Verma, J.)

The petitioner has filed the present writ petition for issue a writ order or direction to set aside the award dated 24-7-2004 passed by the learned Labour Court, Haldwani, Nainital (Annexure No.1 to the writ petition), whereby the termination of services of workman Pushkar Singh by the employer w.e.f. 3-2-1992 was held illegal and the workman was reinstated in service without wages from 3-2-92 to 22-9-2001 and thereafter on payment of 50% wages till the date of publication of award, as mentioned in the order.

Relevant facts are that the dispute whether termination of services of workman Swaroop Singh Parmar w.e.f. 3-2-1992 by the employer was illegal and proper and if not, whether the workman concerned is entitled to any relief was referred to the learned Tribunal for adjudication.

The notices were issued to both the parties, who filed their written statement and reply along with documentary evidence. From the side of the workman Pushkar Singh examined himself as

D.W.1, while the employer produced Laxmi Datt Joshi as its witness. The learned Tribunal after recording the evidence led by the parties and perusing the same, ultimately came to the conclusion that the termination of services of the workman by the employer was illegal and improper. The dispute was accordingly answered in favour of the respondent no.2 against the employer. Aggrieved by the award dated 24-7-2004, the employer has preferred the present writ petition.

The impugned judgment and award has been assailed mainly on the ground that the finding of the learned Tribunal holding that the workman had worked for more than 240 days in the employment of the petitioner is illegal and perverse. According to the petitioner, the workman was a daily wager.

I have heard the learned counsel for the parties and perused the material on record.

At the outset, it may be mentioned that this Court while exercising jurisdiction under Article 227 of the Constitution cannot sit as a court of appeal and the scope of writ jurisdiction is limited. The only question to be examined in this writ petition is whether the court below committed any manifest error of law apparent on the face of record and that the order impugned suffers from illegality or perversity.

From a bare perusal of the record, it comes out that the workman was engaged in his service continuously from 13-3-1991 to 3-2-1992 and as such the workman worked for more than 240 days in a year preceding the date of his termination. The learned Tribunal has relied upon the testimony of the workman who had stated that he was engaged as lineman in the electricity branch of Nagarpalika Haldwani and had worked for a continuous period of more than 240 days in the employment. The learned Tribunal has also placed reliance upon the certificate issued by the Executive

Officer of the Nagar Palika to the effect that the workman had worked for the aforesaid period of more than 240 days. The learned Tribunal has already dealt with all the relevant aspect of the case elaborately in its judgment and award.

From a perusal of the material on record, I am of the view that the learned Tribunal has recorded a finding of fact on the basis of the evidence led by the rival parties. I do not find any manifest error to have been committed by the learned Tribunal. The impugned award passed by the respondent no.1 does not suffer from any illegality and perversity. The writ petition lacks merit and is liable to be dismissed.

The writ petition is hereby dismissed. No order as to costs.

(B.S.Verma, J.)

RCP